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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,693	11/04/2003	Ioan Sasu	2993-478US	4905

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EXAMINER

EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/699,693

Applicant(s)

SASU ET AL

Examiner

Richard Edgar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005 under 37 CFR 1.111.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 26-33 is/are allowed.
- 6) ☒ Claim(s) 12, 14-17 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 13, 19, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed 10 June 2005 have been fully considered but they are not persuasive.

With respect to the drawings, Applicant's contend that the cast and the assembled sheet metal diffuser casing embodiments look the same, and therefore the drawings of record show the claimed features. The examiner disagrees. Claim 4, for instance, recites "a sheet metal outer annular wall extending axially from a radially outer rim of said machined vaned disc." Figs. 2 and 3 appear to only show a continuous wall portion and not a sheet metal wall extending from a disc.

Applicant's arguments, see the paragraph bridging pages 8 and 9, filed 10 June 2005, with respect to claims 1-3, 7-9, 11 and 26-27 have been fully considered and are persuasive. The rejection of claims 1-3, 7-9, 11 and 26-27 has been withdrawn.

Regarding Applicant's argument concerning claims 12, 14-17, 20 and 21, the arguments of counsel cannot take the place of evidence in the record. In re Schulze, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965).

Applicant's arguments, see page 10, second to last full paragraph, filed 10 June 2005, with respect to claims 19 and 29-31, in conjunction with the amendment to claim

29, have been fully considered and are persuasive. The rejection of claims 19 and 29-31 have been withdrawn.

Specification

The examiner notes Applicant has originally filed a brief summary of the invention in harmony with the invention as originally claimed. Specifically, the four paragraphs of the brief summary of the invention are substantially similar to the four independent claims. Applicant has amended the independent claims but not correspondingly amended to the brief summary of the invention. See MPEP §§ 608.01(d) and 1302.01.

Claim Objections

Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Note claim 18 is no longer pending.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sheet metal outer annular wall extending axially from a radially outer rim of the machined disc, must be shown or the feature(s) canceled from the claim(s). Figs. 2 and 3 only show an annular

wall continuous with a machined disc. No new matter should be entered. See claims 4-6, 22-23, 28, 32 and 33.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "said outer sheet metal annular wall" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 14-17, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,854,126 (Chevis et al. hereinafter) as evidenced by Merriam-Webster Collegiate Dictionary.

Applicant is reminded that an examiner may use a second reference in a 35 U.S.C. § 102 rejection when the second reference is being used to explain the meaning of a term used in the primary reference.

The Chevis et al. reference discloses a diffuser comprising a diffuser casing including: a generally radially extending surface 22 having a first array of vanes 60 integrally formed on (Merriam-Webster Collegiate Dictionary defines integral as *formed as a unit with another part*. Therefore, "integrally formed on" merely means at least two parts being connected as a unit) a rearwardly facing side thereof, and a generally axially

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extending annulus 24 projecting rearwardly from a periphery of said radially extending surface 22, said annulus being provided with a second array of vanes 62 defining a plurality of exit air passages through said annulus; and a cover 46 adapted to cooperate with the first array of vanes 60 when secured to the diffuser casing in order to define therewith a plurality of entry air passages in communication with said exit air passages.

The diffuser casing 22, 24, as can be seen in Fig. 2, is bowl-shaped, and the cover 46 is placed in the casing 22, 24.

By way of bolts and throughbores 61, the cover 46 and diffuser casing 22 are pressure fitted.

The vanes 60 are machined (col. 4, lines 24-27).

A vaneless arcuate intermediate passage 58 extends between the inlet and outlet, and defines a bend from a radial direction to an axial direction.

Allowable Subject Matter

Claims 1-11 and 26-33 are allowed.

Claim 13, 19, 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

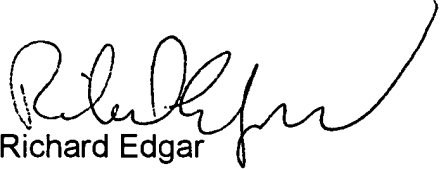
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7 am- 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Edgar
Examiner
Art Unit 3745

RE



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
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2/15/05